UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,677	07/24/2000	Guy Nathan	871-85	6899

23117 7590 07/27/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
SALTARELLI, DOMINIC D	
ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
07/27/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/621,677	NATHAN, GUY	
	Examiner	Art Unit	
	DOMINIC D. SALTARELLI	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 21 have been considered but are not persuasive.

First, applicant argues that the modification of Martin and Wilder in view of Banks would result in a questionnaire being displayed while a user was choosing from among available songs, saying that Banks teaches displaying a questionnaire while a product is being prepared, and thus does not teach the claimed limitation of displaying the questionnaire after a user has selected a predetermined song (applicant's remarks, page 2).

In response, the cited section of Banks (col. 7, lines 44-65) clearly states that the questionnaire is not displayed to a customer until after they have finalized their purchase. Thus, when Banks is used to modify Martin and Wilder, the questionnaire is not displayed until the user finalizes their purchase, and since the product being purchased in the Martin/Wilder combination are songs on a jukebox, this means that the questionnaire is not displayed until after a user has finalized the selection of the song they wish to hear.

Second, applicant argues that Alavi does not disclose giving out an award for filling out a questionnaire (applicant's remarks, page 3).

In response, the reward granted by Alavi in response to filling out a market survey questionnaire is specifically a predetermined amount of time of free Internet access (col. 1 line 67 - col. 2 line 4).

Lastly, applicant argues that the modification of view of Alavi constitutes hindsight reconstruction of applicant's invention (applicant's remarks, page 3).

In response, the stated benefit is the purpose of Alavi's disclosure. Alavi seeks to gather market research data, and does so by offering limited amounts of free Internet access as incentive to users to fill out surveys which gather said data.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. (5,355,302, of record) [Martin] in view of Wilder (5,408,417, of record), Banks et al. (5,559,714, of record) [Banks] and Alavi (5,970,467).

Regarding claim 21, Martin discloses a jukebox system, connected to a distribution network controlled by a host server (fig. 1) comprising:

a display, operable to display at least a customer interface, wherein the customer interface comprises at least one displayed option, corresponding to at

least one song, for selecting the corresponding song to be played (col. 7, lines 18-55);

a memory that stores at least songs that may be played on the jukebox apparatus in response to selections from a customer (col. 5, lines 8-25);

an audio reproduction system providing audio (fig. 1, audio reproduction 127 and speaker 129);

a communication system for enabling the jukebox device to communicate with the distribution network (illustrated in fig. 1, as the jukeboxes and central controller and connected via modems 17 and 19); and

a fee payment device for accepting payment of a fee (col. 5, lines 42-59);

wherein the display is further operable to display at least one option for selecting a song not yet available on the jukebox device for download to the jukebox device (col. 6, lines 3-7 and col. 7, lines 10-17).

Martin fails to disclose the display comprises a touch screen portion and the displayed options are touch selectable, and the display is still further operable to display, said display triggered in response to the purchase, by a user, of predetermined songs, a questionnaire different from touch selectable options for selecting songs for playback and touch selectable options for selecting songs for download, comprising one or more questions for gathering customer information, wherein the touch-screen is operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, and a song request routine for

requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the questionnaire response file, and a reward routine for presenting the customer with a reward is processed, after a determination routine has determined whether the questionnaire was completed.

In an analogous art, Wilder teaches an audiovisual reproduction system with a touch screen for user selections (col. 4, lines 13-22), providing an intuitive form of user selections from a very flexible interface.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin to include a touch screen, as taught by Wilder, for the benefit of providing an intuitive form of user selections from a very flexible user interface.

Martin and Wilder fail to disclose the display is still further operable to display, said display triggered in response to the purchase, by a user, of predetermined songs, a questionnaire different from touch selectable options for selecting songs for playback and touch selectable options for selecting songs for download, comprising one or more questions for gathering customer information, wherein the touch-screen is operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, and a song request routine for requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the

questionnaire response file, and a reward routine for presenting the customer with a reward is processed, after a determination routine has determined whether the questionnaire was completed.

In an analogous art, Banks teaches a vending machine system wherein a display is operable to display a questionnaire comprising one or more questions for gathering customer information upon purchase of a predetermined product by the user (the questionnaire is displayed after each purchase), operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory (col. 7, lines 44-65), providing the benefit of valuable customer feedback regarding customer interests and information to interested parties (col. 8, lines 37-49).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin and Wilder to include display of a questionnaire upon purchase of a predetermined product by the user, comprising one or more questions for gathering customer information, operable to accept customer input corresponding to the answers to the one or more questions, and wherein the answers are saved to a questionnaire response file in the memory, as taught by Banks, providing the benefit of valuable customer feedback to interested parties, such as content distributors and/or marketing firms. The product being purchase is a predetermined song, since the system disclosed by Martin is a musical jukebox with a limited selection of songs.

Martin, Wilder, and Banks fail to disclose a song request routine for requesting at least one new song for download from the host server, wherein the at least one song is determined as a function of the answers saved in the questionnaire response file, and a reward routine for presenting the customer with a reward is processed, after the determination routine has determined whether the questionnaire was completed.

The method of selecting content to make available to users based on information gathered about said users is notoriously well known in the art. Called "collaborative filtering", it is the method of inferring the tastes users from other information such as demographic information, psychographic information, and content consumption history and patterns, often gathered in the form of surveys, and using these inferences to select content such as advertisements, television programs, movies, and music that would most likely be of interests to the public or a particular group of users.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin, Wilder, and Banks to employ collaborative filtering using the stored results of the questionnaire response file, to infer desirable song titles and provide a more attractive selection of songs to users of the system.

Martin, Wilder, and Banks fail to disclose a reward routine for presenting the customer with a reward is processed, after the determination routine has determined whether the questionnaire was completed.

In an analogous art, Alavi teaches a method for accurately collecting market research survey data by involves providing a reward to users upon completion of a survey (col. 1 line 50 - col. 2 line 24).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Martin, Wilder, and Banks to and a reward routine for presenting the customer with a reward is processed, after a determination routine has determined whether the questionnaire was completed, as taught by Alavi, for the benefit of providing incentive to users to fully complete presented surveys.

Regarding claim 23, Martin, Wilder, Banks, and Alavi disclose the system of claim 21, wherein the reward routine provides the customer a free song selection for completing the questionnaire (Alavi teaches providing free, limited use of the system in return for completing a survey, and according to Martin, the system is a song playing jukebox, thus free limited use of a jukebox is access to a free song selection).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/
Primary Examiner, Art Unit 2421